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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEB 28 1995

In the Matter of )

Assessment and Collection )  
of Regulatory Fees for )  
Fiscal Year 1995 )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MD Docket No. 95-3

REPLY COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet") hereby submits its reply comments to the comments on the Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 95-14, released January 12, 1995 ("Notice"). PageNet is particularly concerned about the dramatic increases in proposed regulatory fees for Public Mobile Radio ("PMR") services, especially paging, and the profound adverse effect that such increases will have on paging companies such as PageNet. For the reasons set forth below, PageNet advocates that the Commission revise its schedule of fees for 1995 to substantially reduce the level of fees for paging services.

I. **THE IMPACT ON PAGING CARRIERS  
IS DISPROPORTIONATE AND UNWARRANTED**

The Commission is obligated to collect a total of \$116,400,000 in regulatory fees for Fiscal Year 1995, pursuant to 47 U.S.C. § 159(a). This is a 93% increase from the total amount of fees collected for 1994. Notice, ¶ 3. However, the Commission stated that the total increase and impact on individual fee payers is somewhat offset by the fact that some services are to be added

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to those who must pay fees from 1994 and that the number of payment units is increased in some areas. Notice, ¶ 3.

The proposed regulatory fee schedule results in dramatically higher payments by paging companies than the overall 93% increase. Paging services are included in the Common Carrier Bureau allocation, which is assigned \$57 million in fees, or 49% of the total. Notice, ¶ 9. This is a 218% increase over the 1994 level. PMR services are assessed on the basis of \$.13 per unit, up from the \$.06 per subscriber in 1994. Notwithstanding the change from subscribers to units, this is an 11% increase over the 1994 level. AirTouch Paging ("AirTouch") Comments, ¶ 6. Mobile Media Communications, Inc. ("Mobile Media") contends that the proposed fee schedule will result in an increase of 500% for paging service providers. Mobile Media Comments, ¶¶ 1, 18. AirTouch states that its fee increase would be approximately 570%. AirTouch Comments, ¶ 3. The increase in PageNet's fees would also be disproportionately high.

These increases that are being thrust upon the paging service providers are substantially beyond the overall increases in the level of fees.

## **II. THE CALCULATION FOR PAGING SERVICE FEES DOES NOT COMPLY WITH THE REGULATORY FEE PROVISIONS OF THE ACT**

The initial 1994 fee structure was prescribed by Congress, and must be followed by the Commission in subsequent years. However, the Commission is to make annual changes according to the prescribed methods for making "mandatory adjustments" and "permitted amendments." 47 U.S.C. § 159(b)(2)-(3).

Mandatory adjustments require the Commission to take the following steps:

- (1) Consider the total amount to be collected;
- (2) Identify the Full Time Equivalent ("FTE") employees allocated to enforcement, policy and rulemaking, user information and international activities;
- (3) Determine the amount to be recovered from each fee category (i.e., by bureau) by proportionally increasing or decreasing the revenue requirement of each fee category relative to the ratio of FTEs in each category to the total FTEs allocated to regulatory activities. Each fee category share is prorated among the services within the fee category to determine the cost allocation for each service; and
- (4) Divide the prorated cost allocation by the number of estimated payment units for each service within the category to determine service fees.

Permitted amendments can be made to take into account factors that are reasonably related to the benefits of the Commission's activities to the fee payers by considering their service areas, the nature of their service, and other factors that the Commission determines are "necessary in the public interest."

The Commission's proposed 1995 fees for paging services contravene these statutory requirements. The allocation of 689 FTEs to the Common Carrier Bureau and the further allocation of those FTEs to the individual services have been changed from the 1994 Congressional prescription. The method for calculating paging service fees has been switched from subscribers to units; yet, the Commission uses the 34.0 million subscriber figure as the basis for calculating the \$.13 per unit charge.

While the Commission has limited authority, as set forth above, to make mandatory adjustments and permitted amendments to

the fee schedule, the changes in the fees for paging services clearly exceed the Commission's statutory authority. See Personal Communications Industry Association ("PCIA") Comments, pp. 6-9. Significantly, no changes in the nature of the paging industry have occurred since the regulatory fee schedule was enacted by Congress that warrant the proposed changes in paging fees. Thus, the Commission does not have the authority to alter the subscriber-based framework for paging service fees. See PCIA Comments, p. 8; Mobile Media Comments, ¶¶ 9, 11.

### **III. THE COMMISSION HAS NOT JUSTIFIED ITS PROPOSED CHANGES IN THE PAGING SERVICE REGULATORY FEES**

The Commission's decision to allocate specific FTEs to the Common Carrier Bureau, its allocation to PMR services, its switch from subscribers to units, and its increase in the unit fee from \$.06 to \$.13 are all without justification. Notice, ¶¶ 9, 44. This raises specific questions about the Commission's allocations and calculations, such as the assignment of costs to particular services and the resultant suballocation to particular services, whether employees have been double-counted in the FTE calculations, and the methodology, if any, employed in calculating the fee proposals.

### **IV. THE DRAMATIC INCREASES IN PAGING FEES HAVE NO CORRELATION IN THE LEVEL OF REGULATION**

The regulatory fees are to be based on the benefits of the Commission's regulatory activities to the particular category of services involved. The paging industry is truly competitive and has been deregulated to a large extent. For instance, paging

carriers do not file tariffs with the Commission. Thus, paging service providers obtain only limited benefits from the Commission's services that are to be considered under the regulatory fee parameters. Certainly the level of those benefits has not increased from 1994 to 1995.

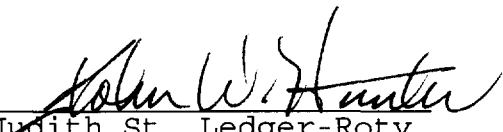
Even that level of regulation of the paging industry is not necessary, but is of the Commission's own choosing. Despite the fact that the paging industry is competitive, the Commission elects to regulate paging services on a transmitter-by-transmitter basis, rather than on an area basis. If paging were treated like other mobile services, it would not incur even the limited regulatory costs that it now does.

#### **V. CONCLUSION**

The paging service providers are incurring a disproportionate and unjustified share of regulatory fees for 1995. The formula should be changed to reflect a more even-handed, cost-justified level of fees.

Respectfully submitted,

PAGING NETWORK, INC.

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February 28, 1995

CERTIFICATE OF SERVICE

I, Courtenay P. Adams, hereby certify that a copy of the foregoing *Reply Comments of Paging Network, Inc.* was sent, this 28th day of February 1995, by first class U.S. mail, postage prepaid, to the following:

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